



UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DERLYN D. GROSS,

Plaintiff,

vs.

STATE OF NEVADA, et al.,

Defendants.

CV-N-03-0157-DWH (RAM)

REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE

This Report and Recommendation is made to the Honorable David W. Hagen, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

In an Order entered April 23, 2003 (Doc. #3), the court found that Plaintiff's Complaint failed to state a claim upon which relief may be granted. The court ordered the Complaint filed, but dismissed it with leave to amend. Plaintiff was allowed thirty (30) days to amend his Complaint to attempt to state a claim.

The Clerk mailed a copy of the Order (Doc. #3) to Plaintiff at the last address that he provided to the court: 911 Parr Boulevard, Reno, Nevada 89512 (the Washoe County Detention Center) (Doc. #4). On May 12, 2003, the court received from the Washoe County Detention Center a response, which states "Inmate released 04-30-03" (Doc. #5).

On May 27, 2003, the Plaintiff was given an additional twenty (20) days in which to inform the court of his current address and advised Plaintiff that failure to do would result in dismissal of this action (Doc. #6). This order was returned to the court, with a notation on the envelope stating "Not Here Return to Sender" (Doc. #7).

1 LSR 2-2 provides that failure to notify the court of a change of address "may result in dismissal
2 of the action with prejudice."

3 Under these circumstances the court should dismiss this action without prejudice.

4 **RECOMMENDATION**

5 **IT IS HEREBY RECOMMENDED** that the District Judge enter an order dismissing this action
6 without prejudice.

7 The parties should be aware of the following:

8 1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local
9 Rules of Practice, specific written objections to this Report and Recommendation within ten (10) days
10 of receipt. These objections should be titled "Objections to Magistrate Judge's Report and
11 Recommendation" and should be accompanied by points and authorities for consideration by the
12 District Court.

13 2. That this Report and Recommendation is not an appealable order and that any notice
14 of appeal pursuant to Rule 4(a)(1), Fed. R. Civ. P., should not be filed until entry of the District Court's
15 judgment.

16 DATED: July 1, 2003.

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19 UNITED STATES MAGISTRATE JUDGE
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